

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BLUE SPIKE, LLC,

Plaintiff,

v.

TEXAS INSTRUMENTS, INC., *et al.*,

Defendants.

BLUE SPIKE, LLC,

Plaintiff,

v.

TVTAK USA, INC. and TVTAK, LTD.,

Defendants.

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§ Civil Action No. 6:12-cv-499-LED

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§ (LEAD CASE)

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§ JURY TRIAL DEMANDED

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§ Civil Action No. 6:12-cv-646-LED

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§ (CONSOLIDATED WITH
LEAD CASE NO. 6:12-cv-499-LED)

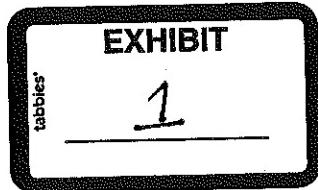
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§ JURY TRIAL DEMANDED

**DECLARATION OF DAVID AMSELEM IN SUPPORT
OF TVTAK USA, INC. AND TVTAK LTD.'S MOTION TO DISMISS
COMPLAINT FOR LACK OF PERSONAL JURISDICTION AND IMPROPER VENUE**

I, David Amselem, declare that:

1. I am the President of TvTak USA, Inc. and TvTak Ltd. ("collectively "Defendants"). I make this declaration on behalf of both entities in the matter referenced above and in support of the Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue. I have personal knowledge of the matters contained herein and am competent to testify thereto.

2. TvTak USA, Inc. is a New York corporation and is a wholly owned subsidiary of TvTak Ltd. TvTak USA Inc. was established in January 2012 to market TvTak services in the United States. TvTak USA Inc. has one employee, the director of Product Management, who is



based in New York but is also responsible for addressing other international markets. TvTak USA, Inc.'s only business office in the United States is located in New York City.

3. TvTak Ltd. is located in Israel. TvTak Ltd. employs five R&D engineers and two others, including myself, all who are located in Israel. It has independent resellers in Brazil, Mexico, Spain, UK and other countries. TvTak Ltd. currently has no reseller in the United States.

4. TvTak Ltd. designed a platform providing instant interaction on television shows, games and commercials. The platform identifies the program and allows viewers to interact instantly. TvTak has developed a technology for smartphone apps for instant recognition of TV shows and commercials as they are being broadcast. When the user points at the TV through a TvTak enabled mobile app, TvTak analyzes the video playing on the TV through unique analysis algorithms. The analysis computed on the smartphone is then compared to the analysis done in real-time of broadcast TV channels in a back-office usually located in a datacenter.

5. In order to be able to provide services in a given territory, TvTak is required to set-up a dedicated back-office with indexing hardware locally in the territory. TvTak is currently operating with back-office services in France, UK, Spain and in other countries outside of the United States. TvTak has no back-office in the United States thus there is no possibility of using the TvTak detection services on television content there. There have been only some trials in the United States using demo systems for testing. There is currently no TvTak smartphone app available in the United States for consumers to download.

6. Defendants' customers are all located outside of the United States.

7. Neither TvTak USA, Inc. nor TvTak Ltd. nor any of its resellers have ever sold any product or services in Texas or anywhere else in the United States, including any software,

applications, systems and technology that Blue Spike alleges infringes on its patents. Defendants have not made, used, imported, or offered to sell any products or services in Texas.

8. Defendants do not direct any activities into the State of Texas nor have they ever directed business to the State of Texas or the Eastern District of Texas. They are not registered to engage or transact business in Texas nor have they ever had any officers, employees, agents, consultants or contractors there. They do not have, and have never had offices, warehouses, factories or other facilities in Texas.

9. Defendants have never directed marketing or advertising to Texas, never conducted any testing in Texas and have never received any revenue from Texas.

10. Defendants operate a website (www.tvtak.com) that is available worldwide over the Internet. See attached Exhibit A. TvTak's website does not provide any commercial services and serves solely for informational purposes. There is no interactive commercial activity through this website other than the ability of a website visitor to send an email or sign up for further information. This website is maintained, hosted and operated outside of Texas and has never been specifically directed to Texas.

11. I am unaware of any factual nexus with the State of Texas or the Eastern District of Texas.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on this Wednesday 12th of December, 2012.



David Amselem